

STATE OF CONNECTICUT

V.

TOWN OF TRUMBULL

*I certify that this document is a true copy of a record
(original or photocopy, whichever is applicable)
on file at the Department of Energy and Environmental Protection.*
[Signature]
Office Assistant
Signature (Your title), Department of Energy and Environmental Protection

CONSENT ORDER

Date of Issuance December 3, 2012

Order No. CO WR SW 12 006

A. With the agreement of the Town of Trumbull (“Respondent”), the Commissioner of Energy and Environmental Protection finds:

1. Respondent is a municipality which discharges stormwater associated with industrial activity from its facility located at 366 Church Hill Road in Trumbull, Connecticut (“public works stormwater discharge”).
2. Respondent is a municipality which discharges stormwater from a municipal separate storm sewer system in Connecticut (“municipal stormwater discharges”).
3. Since May 8, 2003, Respondent’s public works stormwater discharge has been covered under the General Permit for the Discharge of Stormwater Associated with Industrial Activity (“Industrial Stormwater General Permit”) issued on October 1, 2002, modified July 15, 2003, reissued October 1, 2007, reissued October 1, 2008, and reissued April 14, 2009 pursuant to Connecticut General Statute 22a-430b.
4. Respondent is required to monitor its public works stormwater discharge annually between October 1st and September 30th in accordance with Subsection 5(c) of the Industrial Stormwater General Permit. Since October 1, 2005, Respondent failed to adequately monitor its public works stormwater discharge in accordance with the Industrial Stormwater General Permit during the following periods: 2004-2005, 2005-2006, and 2006-2007.
5. On May 12, 2008, Notice of Violation NOV WR SW 08 062 was issued to Respondent for failure to sample public works stormwater discharge for the years 2005, 2006, and 2007. In addition,

Respondent failed to sample stormwater for the years 2008, 2009 and 2010. Respondent responded to the NOV and partially complied thereto by collecting two (2) makeup samples.

6. Respondent's municipal stormwater discharges have been authorized under the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems ("MS4 Permit") issued on January 9, 2004 and reissued January 9, 2011 under §22a-430b of the Connecticut General Statutes.
7. Respondent is required to monitor six of its municipal stormwater discharges annually between January 1st and December 31st in accordance with Subsection 6(h) of the MS4 Permit and submit the results by January 1 of the subsequent year. Beginning January 1, 2005, Respondent failed to submit municipal stormwater discharges monitoring results in accordance with the MS4 Permit for the years 2004, 2005, and 2006. Sampling submitted by the Respondent for the years 2007, 2008, 2009 and 2010 consisted of fewer than six municipal stormwater discharges, in violation of the requirements of Subsection 6(h).
8. Pursuant to Subsection 6(i) of the MS4 Permit, Respondent is required to prepare and submit an Annual Report for each year by January 1 of the subsequent year. Respondent failed to submit an Annual Report the year 2010 and submitted an incomplete Annual Report for the year 2008.
9. By virtue of the above, Respondent has violated permits issued under §22a-430b of the Connecticut General Statutes
10. By agreeing to the issuance of this Consent order, Respondent makes no admission of fact or law with respect to the matters addressed herein, other than the facts asserted in Paragraphs A.1., A.2., A.3., , and A.6.

B. With the agreement of Respondent, the Commissioner, acting under 22a-6, §22a-424, §22a-425, §22a-427, §22a-428, §22a-430, §22a-430b, and §22a-438 of the Connecticut General Statutes, orders Respondent as follows:

1. On or before one-hundred-twenty (120) days after the date of issuance of this consent order, Respondent shall review its SWPPP and perform a Comprehensive Site Inspection of its Public Works and landfill facilities in accordance with Section 5 of the Industrial Stormwater General Permit. Respondent shall use the form included in Attachment A to this consent order ("form") to assist in performing such review and evaluation.
2. Within one hundred eighty (180) days after the date Respondent performs the review and evaluation required under paragraph B.1., Respondent shall submit in writing, for the Commissioner's review, the completed form, a summary of findings from Respondent's review and evaluation, and a discussion of corrective actions required and taken, including any updates or amendments to the

Stormwater Pollution Prevention Plan necessary to make such plan complete or to otherwise comply with the general permit.

3. Full compliance. Respondent shall not be considered in full compliance with this consent order until all actions required by this consent order have been completed as approved and to the Commissioner's satisfaction.
4. Penalty. Respondent agrees to the assessment of a civil penalty of thirteen thousand (\$13,000) dollars as the total civil penalty to be sought by the Commissioner for past violations described in paragraphs A.5., A.6., A.8., A.9., A.10, and A.11. of this consent order to be satisfied by the following:
 - a. Supplemental Environmental Project.
 - i. On or before October 1, 2013, Respondent has agreed to fund and undertake a supplemental environmental project ("SEP") requiring an expenditure of at least thirteen thousand (\$13,000.00) dollars which is the total estimated cost as determined by the Commissioner for the SEP project described as follows: Respondent shall purchase zero waste and/or organic composting units to be sold to residents at a discounted price as detailed in Respondent's proposal, included as Attachment B of this consent order. Respondent shall complete the SEP in two phases: Phase 1- purchase of units at a cost of \$7,000 on or before October 1, 2012, and Phase 2- purchase of units at a cost of \$6,000 on or before October 1, 2013. In lieu of phased SEP implementation, Respondent may purchase units at a total of \$13,000 on or before October 1, 2013.
 - ii. On or before November 1, 2012, Respondent shall certify, using language in paragraph B.11., completion of Phase 1 of the approved SEP and provide the Department with a summary of costs to meet the expenditure of \$7,000 detailed in paragraph B.4.a.i. above. If Respondent completes the SEP project for a total expenditure of \$13,000 on or before November 1, 2012, Respondent shall certify, using language in paragraph B.11., final completion of the SEP and provide the Department with a summary of costs but will not be required to submit the certification in paragraph B.4.a.iii. below.
 - iii. On or before November 1, 2013, Respondent shall certify, using language in paragraph B.11., completion of the approved SEP and provide the Department with a summary of costs to meet the expenditure of \$6000 detailed in paragraph B.4.a.i. above.
 - iv. If Respondent fails to fully perform the SEP in accordance with paragraphs B.4.a.i., Respondent shall immediately notify the Commissioner in writing of such noncompliance and shall, upon written request by the Commissioner, remit a payment equal to: \$13,000 plus \$2,500. Within fourteen (14) days after the date of the Commissioner's written request, Respondent shall make such payment in accordance with the remittance procedures for unexpended SEP funds in subparagraph B.5. of this consent order.

- v. Should the Commissioner determine that the actual cost to the Respondent of any fully completed SEP is less than the estimated cost, as determined by the Commissioner, of such SEP, Respondent shall pay the difference between such actual cost and the estimated cost to the Commissioner as unexpended SEP funds. The Commissioner shall notify the Respondent in writing of the amount of any such unexpended SEP funds that are due. Respondent shall, within fourteen (14) days after the date of such written notice, remit the full amount of the unexpended SEP funds. Payment of unexpended SEP funds shall be by certified or bank check payable to "Treasurer, State of Connecticut" and the check shall state on its face "Statewide SEP Account, Consent Order No. 12 006." Respondent shall mail or personally deliver such payment to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, Connecticut 06106-5127.
 - vi. Respondent shall not claim or represent that any SEP payment made pursuant to this consent order constitutes an ordinary business expense or charitable contribution or any other type of tax deductible expense, and Respondent shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under this paragraph.
 - vii. If and when Respondent disseminates any publicity, including but not limited to any press releases regarding funding a SEP, Respondent shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.
5. Payment of penalties. Payment of penalties under this consent order shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to "Treasurer, State of Connecticut." The check shall state on its face, "Materials Management and Compliance Assurance, Water Permitting and Enforcement Civil Penalty, Consent Order No. WR SW 12 006."
6. Sampling and sample analyses. All sample analyses which are required by this consent order and all reporting of such sample analyses shall be conducted by a laboratory certified by the Connecticut Department of Public Health to conduct such analyses. All sampling and sample analyses performed under this order shall be performed in accordance with procedures specified or approved in writing by the Commissioner, or, if no such procedures have been specified or approved, in accordance with 40 CFR 136. Unless otherwise specified by the Commissioner in writing, the value of each parameter shall be reported to the maximum level of precision and accuracy specified in the applicable protocol, and if no such level is specified, to the maximum level of precision and accuracy possible.
7. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this consent order in a complete and approvable form. If the Commissioner notifies Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit

it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within 30 days of the Commissioner's notice of deficiencies. In approving any document or other action under this consent order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this consent order. Nothing in this paragraph shall excuse noncompliance or delay.

8. Definitions. As used in this consent order, "Commissioner" means the Commissioner or a representative of the Commissioner. The date of "issuance" of this consent order is the date the consent order is deposited in the U.S. mail or personally delivered, whichever is earlier.
9. Dates. The date of "issuance" of this consent order is the date the consent order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this consent order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this consent order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this consent order, the word "day" as used in this consent order means calendar day. Any document or action which is required by this consent order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.
10. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this consent order shall be signed by Respondent or, if Respondent is not an individual, by Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and Respondent or Respondent's chief executive officer and each such individual shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."
11. Noncompliance. This consent order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this consent order may subject Respondent to an injunction and penalties.

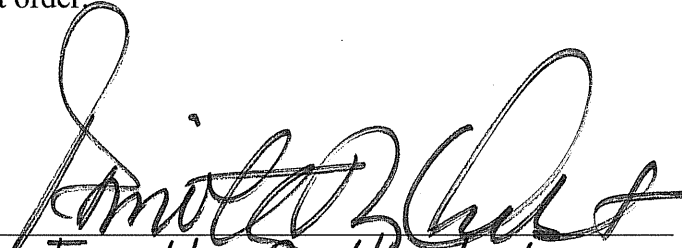
12. False statements. Any false statement in any information submitted pursuant to this consent order is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
13. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this consent order, Respondent shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this consent order or after obtaining a new mailing or location address. Respondent's obligations under this consent order shall not be affected by the passage of title to any property to any other person or municipality.
14. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties, nothing in this consent order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this consent order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations or pollution.
15. Respondent's obligations under law. Nothing in this consent order shall relieve Respondent of other obligations under applicable federal, state and local law.
16. No assurance by Commissioner. No provision of this consent order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this consent order will result in compliance or prevent or abate pollution.
17. Access to site. Any representative of the Department of Energy and Environmental Protection may enter Respondent's site or facility without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this consent order.
18. No effect on rights of other persons. This consent order neither creates nor affects any rights of persons or municipalities that are not parties to this consent order.
19. Notice to Commissioner of changes. Within 15 days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this consent order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
20. Notification of noncompliance. In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this consent order or of

any document required hereunder, Respondent shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

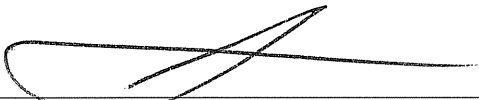
21. Submission of documents. Any document required to be submitted to the Commissioner under this consent order shall, unless otherwise specified in this consent order or in writing by the Commissioner, be directed to:

Donna Seresin, Sanitary Engineer 3
Department of Energy and Environmental Protection
Bureau of Materials Management and Compliance Assurance
Water Permitting and Enforcement Division
79 Elm Street
Hartford, Connecticut 06106-5127

Respondent consents to the issuance of this consent order without further notice. The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order

BY: (Signature: 
(Print Name): Timothy A. Herbst
(Print Title): First Selectman
11/6/12
Date

Issued as a final order of the Commissioner.



Macky McCleary
Deputy Commissioner

11/30/12
Date

Order No. WR SW 12 006
Town of Trumbull Land Records